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16

17 UNITED STATES DISTRICT COURT
18 SOUTHERN DISTRICT OF CALIFORNIA
19

20 NICOLAS WOOD, individually and on behalf
21 of all others similarly situated,

22 Plaintiff,

23 v.

24 BBG COMMUNICATIONS, INC., BBG
GLOBAL AG, and BBG HOLDINGS, LTD.,

25 Defendant.
26
27
28

Case No. 11CV0227 AJB (NLS)

CLASS ACTION

**JOINT PROPOSED SCHEDULING
ORDER**

CMC

Date: 12/16/11

Time: 8:30 a.m.

Pursuant to Federal Rule of Civil Procedure 26, the parties submit the following Joint Proposed Scheduling Order from their Rule 26(f) meeting between counsel for Plaintiff and Defendants BBG Communications, Inc. ("**BBG Communications**") and BBG Global AG ("**BBG Global**" and collectively referred to as "**Defendants**") held on November 14, 17, and December 8, 2011, as well as a conference of counsel that took place on December 8, 2011.

1. PROPOSED DISCOVERY PLANS

a. Plaintiffs' Proposed Discovery Plan

The parties differ on how they propose discovery be conducted. Plaintiff believes no restriction should apply to discovery and Defendants want to trifurcate discovery. If discovery is truncated, whether bifurcated or trifurcated, discovery will be performed in sequence instead of parallel or simultaneously. This will necessarily consume, assuming Defendants' Motion for Summary Judgment ("MSJ") is denied, more time before Plaintiff can complete Motion for Class Certification ("MCC") and Trial discovery; resulting in MCC and Trial dates that are extended from those Plaintiff originally proposed and the Court indicated in its Order Following Early Neutral Evaluation Conference.

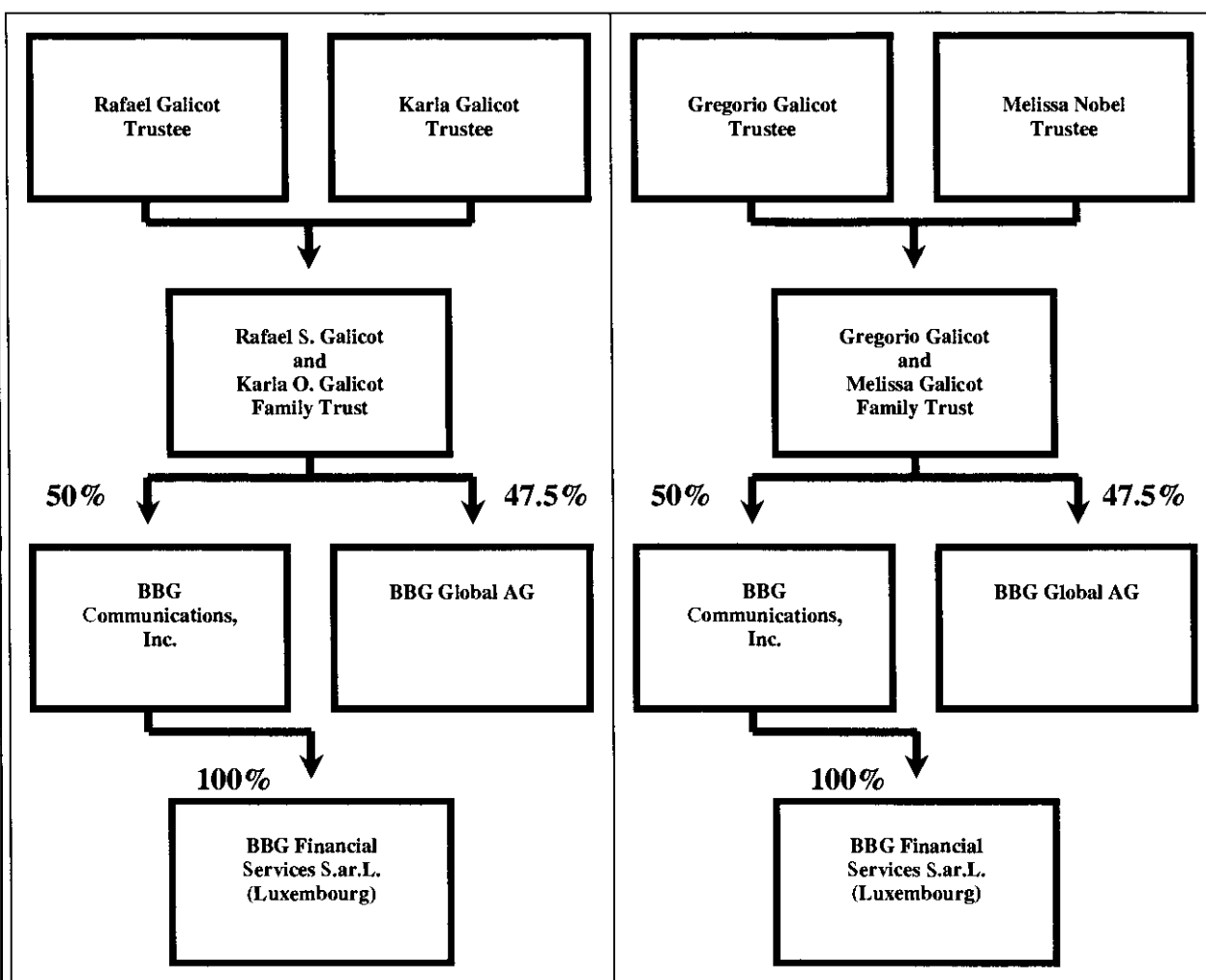
Plaintiff proposes the parties serve their initial disclosures pursuant to Rule 26(a)(1)(D) by December 23, 2011. Defendant proposes initial disclosures be deferred until after its Motion for Summary Judgment ("MSJ") is heard. Plaintiffs oppose this as initial disclosures require parties to disclose facts, witnesses and documents that support their "*claims or defenses.*" FRCP 26(a)(1)(A)(Emphasis Added.) If Defendants are not required to make their initial disclosure now, Plaintiff will be deprived of his right to know the facts, documents and witnesses that Defendants claim support their defense that this Court lacks jurisdiction or that BBG Global AG is not the alter ego of BBG Communications, Inc., which issues are the likely to be crux of Defendants' MSJ. If the Court were to delay the parties' initial disclosures, as Defendants propose, Plaintiff would be prejudiced.

Plaintiff has already served his first Rule 34 request for production to BBG Communications and intends to serve the remainder of his first sets of written discovery by the end of December 2011. Also, Plaintiff has already served subpoenas on third parties.

1 If the court truncates discovery, as Defendants propose, into MSJ jurisdiction and alter-ego
2 discovery, followed by MCC discovery, followed by merits discovery, resolution of the case will
3 suffer from certain delay. Plaintiff does not oppose restricting pre-MSJ discovery to those issues
4 raised by Defendants' MSJ, including, but not limited to, alter-ego, jurisdiction, and significant
5 merits issues, such as application of the safe harbor doctrine to Plaintiff's Bus. & Prof. Code
6 17200 claim, extraterritoriality (See *Morrison v. Nat'l Australia Bank Ltd.*, 130 S. Ct. 2869, 2876-
7 77 (2010); *Norex Petroleum Ltd. v. Access Indus., Inc.*, 631 F.3d 29, 32 (2d Cir. 2010)("a statute's
8 extraterritorial reach is properly analyzed as a merits question"), and whether rates and fees were
9 adequately disclosed or would have deceived a reasonable consumer acting reasonably under the
10 circumstances.

11 i. **Initial Discovery (Pre-MSJ)**

12 The Court and counsel discussed Defendants' intention to file MSJ motions based on
13 jurisdiction, extraterritoriality, alter ego and defendants' adequacy of disclosure of rates and fees.
14 Counsel had additional discussions on the scope of Defendants' MSJ before completing this
15 report. Plaintiff expects that he will not conclude his alter-ego and jurisdiction discovery until
16 June 30, 2011. Plaintiff has considered the alter-ego and merits discovery it would need to
17 conduct and it is extensive. The scope and volume of discovery includes the production of records
18 regarding the formation of the BBG entities, the Galicots' Trusts, which Trusts own the BBG
19 defendant entities; the capitalization of BBG Global, and the income and expenses, the assets and
20 access to capital by the BBG entities, the Galicots' Trusts and the principal operators of the BBG
21 entities, brothers Rafael and Gregorio Galicot; who are also Galicot Trust co-trustees. The flow
22 chart below is a limited understanding of the individuals, trusts and entities involved in the facts of
23 this case. The Galicots are co-trustees with their wives of two family trusts that own all or
24 majority shares of Defendants, who in turn own all or majority shares of other entities. (It has also
25 come to Plaintiff's attention that defendant BBG Communications has recently transferred
26 ownership of subsidiary Faircall Corporation, a long-distance reseller, to two irrevocable trusts for
27 the benefit of the Galicot's children.):
28



Plaintiff will need to obtain and review: the financial institution records of the Galicots, the Galicots' Trusts and the BBG entities; the minutes and agendas of the BBG entities management and board meetings; the travel records of Rafael and Gregorio Galicot, certain BBG employees and its board members; the phone records of the Gregorio and Rafael Galicot and the BBG entities; loans and credit agreements for Rafael and Gregorio Galicot, the Galicots' Trusts and the BBG entities; the agreements between the BBG entities, the Galicots' Trusts and Rafael and Gregorio Galicot, on the one hand, and companies that perform phone services for them and facility owners or operators (e.g., owners and operators of airports, train stations, bus stations and other transportation facility operators) on the other hand; and a list of all agents that solicit and obtain agreements from facility operators for any of the BBG entities.

1 In addition to this written discovery, Plaintiffs will subpoena the Rafael and Gregorio
2 Galicot's, the BBG entities' and the Galicot Trusts' records from at least Wells Fargo Bank and
3 likely other financial institutions, once Plaintiff knows the identity of the financial institutions in
4 or through which the Galicots' Trusts, the BBG entities and Rafael and Gregorio Galicot conduct
5 financial transactions. Plaintiff will subpoena BBG, the Galicots Trusts and Rafael and Gregorio
6 Galicot accountant's records regarding BBG entities, the Trusts and the Galicots.

7 Plaintiff also intends to take the depositions of Rafael and Gregorio Galicot, certain current
8 and former middle and upper management personnel of BBG entities, the trustees of the Trusts
9 that own the BBG entities, Wells Fargo personnel familiar with the BBG Entities, the Trusts and
10 the Galicots' banking business with Wells Fargo. The foregoing is the scope of discovery Plaintiff
11 presently expects to conduct to prepare himself to oppose Defendants' MSJ and demonstrate this
12 Court has jurisdiction over both that they are alter egos of each other, and that Defendants' non-
13 disclosure of rates and fees is likely to deceive a reasonable consumer, is unfair, unlawful, and
14 unconscionable.

15 As to the merits issues raised by the MSJ, Plaintiff will have to examine BBG's payphone
16 artwork, call center scripts, employee handbooks, and other instructions or directives regarding
17 how rates and/or fees are to be disclosed, if at all. Plaintiff will also need to examine and
18 subpoena third parties on the volume of complaints and chargebacks registered against BBG.
19 Plaintiff will have to examine the location of call rating, artwork design, and management.

20 By conducting the discovery described, above, Plaintiff anticipates he will learn of
21 documents and witnesses presently unknown which will necessitate additional discovery.

22 Prior to filing this propose scheduling order, Plaintiff described to BBG's counsel much of
23 the discovery described above and discussed the same. From that discussion Plaintiff's counsel
24 understand that they will get some of the information without dispute, but there will be disputes
25 regarding: a) the discovery of the Galicots' Trusts and Rafael and Gregorio Galicot's financial
26 information and bank records, and b) the contracts with facility operators and sales agents.. If
27 these areas of disputed discovery are not voluntarily resolved, the Court will need to hear
28

1 discovery motion(s). The foregoing, in the aggregate led Plaintiff to conclude he cannot complete
2 the described MSJ discovery before the end of June, 2012.

3 A factor to consider if the Court truncates discovery in this matter is that depositions will
4 be limited during the initial discovery and therefore will necessitate deposing certain witnesses
5 more than once. Plaintiff raised this issue with Defense counsel and he proposed, and Plaintiff
6 agrees that each witness could be deposed more than once but the aggregate time for the
7 depositions of a percipient witness not exceed the 7 hours provided in the FRCP, with due
8 consideration given to the location of the witnesses, i.e. Switzerland and/or the Czech Republic.
9 Plaintiff requests that the Court consider this issue and address it in its Scheduling Order.

10 In the course of meet and confer dialogue regarding this Joint Proposed Scheduling Order,
11 Mr. Puglisi offered that the Defendants could file their MSJ within a relatively short time.
12 Plaintiff's counsel understood this time to be by the end of January or middle of February.
13 Plaintiff accepts this offer and asks that the Court issue a scheduling order that includes the
14 following MSJ briefing schedule.

15 February 17, 2012	Date by which Defendant shall file and serve its MSJ
16 June 30, 2012	MSJ: Alter-ego and Jurisdiction Discovery completed by:
17 August 14, 2012	Date by which Plaintiff shall file and serve its Opposition to Defendant's MSJ
18 August 28, 2012	Date by which Defendant shall file and serve its Reply in Support of MSJ
19 September 11, 2012	Hearing of Defendant's MSJ

21
22 **ii. Post –MSJ Discovery**

23 Plaintiff will need six months to conclude its pre-MCC discovery. If the Court issues its
24 ruling on Defendants' MSJ at the hearing Plaintiff proposes, he would conclude his pre-MCC
25 discovery by March 15, 2013. If her honor believes the Court will not issue its MSJ order for
26 thirty to forty-five days from the MSJ Hearing, Plaintiff proposes the following MCC briefing
27 schedule:
28

1	March 14, 2013	MCC Expert Designation and Production of Reports Served
2	April 8, 2013	MCC Rebuttal Expert Designation and Production of Reports Served
3	May 7, 2013	All pre-MCC discovery concluded
4	June 10, 2013	Plaintiff files and serves his MCC
5	July 10, 2013	Defendant files and serves it opposition to Plaintiff's MCC
6	August 12, 2013	Plaintiff files and serves his reply in support of MCC
7	August 26, 2013	MCC Hearing

9

10 Plaintiff proposes increasing the number of depositions on each side from 10 to 20, and

11 increasing the number of interrogatories he may serve on each Defendant to 50 interrogatories per

12 defendant. Plaintiff also proposes increasing the number of requests for admission to 50 requests

13 for admissions on each party.

14 The subjects on which discovery will be needed include, *inter alia*, the relationships

15 among the various BBG entities, including BBG Communications, Inc., BBG Global AG, BBG

16 Holdings Limited, BBG Financial Services SARL, G-Tel Communications, Inc. and B.Tel, S.A.

17 de C.V., as well as the uniform scheme to not disclose fee and rate information for calls placed at

18 BBG payphones prior to callers incurring charges for their calls.

19 With regard to Defendants' discovery proposal, trifurcation is inappropriate in putative

20 class actions. Plaintiffs propose bifurcation as a measured and appropriate means of avoiding

21 discovery not needed to oppose Defendants' MSJ, but which assures Plaintiff has the right to

22 conduct all discovery allowed under the FRCP.

23 Furthermore, as to Plaintiff's right to conduct post MSJ discovery, without Court ordered

24 restrictions, the Ninth Circuit, local District Courts, and the MCL 4th, have recognized that

25 "information about the nature of the claims on the merits and the proof that they require may be

26 important to deciding class certification." *See, e.g., Ho v. Ernst & Young LLP*, 2007 WL 1394007

27 (N.D. Cal. 2007); W. Moore, *Moore's Federal Practice* 3rd, §23.61[6][b] (3d Ed. 1999); H.

28 Newberg & A. Conte, *Newberg on Class Actions* §9.44 (2002), and cases cited therein. As stated

1 in the MCL 4th, “arbitrary insistence on the class/merits discovery distinction sometimes thwarts
2 an informed judicial assessment that current class certification practice emphasizes” and delays
3 resolution of the case as it will inevitably devolve into a discussion about what is “class” and what
4 is “merits” discovery, as “there is not always a bright line between the two” and unless Defendants
5 will stipulate that the merits as asserted in the FAC are accurate for purposes of class certification,
6 this issue will significantly slow down discovery and the prosecution of this case.

7 “[S]ometimes...certification is proper only if ‘the trial court is satisfied, after a rigorous analysis,
8 that the prerequisites of Rule 23 (a) have been satisfied,’...Frequently that ‘rigorous analysis’ will
9 entail some overlap with the merits of the plaintiff’s underlying claim. That cannot be helped. ‘
10 ‘[T]he class determination generally involves considerations that are enmeshed in the factual and
11 legal issues comprising plaintiff’s cause of action.’ *Dukes v. WalMart*, 131 S. Ct. 2541, 2551-
12 2552 (2011) (quoting *General Telephone Co. of Southwest v. Falcon*, 457 U.S. 147, 160, 102 S.
13 Ct. 2364 (1982) and *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 469, 98 S. Ct. 2454 (1978).

14 Based on the foregoing, Plaintiff’s right to conduct discovery should not be restricted or
15 bifurcated.

16 **b. Defendants’ Proposed Discovery Plan**

17 Plaintiff is correct that the parties differ as to how discovery in this matter should be
18 conducted. Defendants propose conducting discovery in three distinct phases to avoid an
19 unnecessary waste of the parties’ and this Court’s resources and time. More specifically,
20 Defendants propose that the parties first conduct discovery related to their anticipated motion for
21 summary judgment. If Plaintiff’s claims survive that motion, then Defendants propose that the
22 parties conduct discovery related to class certification, and only if a class is certified, conduct
23 discovery related to any remaining issues.

24 Such serial discovery will not, as Plaintiff contends, “truncate” discovery. If Plaintiff
25 defeats Defendants’ intended motion for summary judgment and is able to certify a class, he will
26 still able to take all of the discovery to which he would be entitled were discovery not conducted
27 in phases. The only difference between Defendants’ proposed phased discovery and what Plaintiff
28 proposes is that Defendants’ plan ensures that that the deluge of discovery that Plaintiff intends to

1 take is done in such a way that unnecessary discovery (and discovery disputes) can be avoided,
2 preserving the parties' time and resources.

3 Plaintiff also claims that class discovery issues are often enmeshed with merits issues, and
4 the discovery should be conducted without bifurcation. However, Plaintiff's argument ignores the
5 fact this case differs substantially from the factual scenarios presented in the cases and secondary
6 authorities that he cites. Those cases involve classes with similar claims. Here, by contrast, claim
7 similarity is very much an issue, as Plaintiff seeks to represent a *worldwide class of people* who
8 made telephone calls from *myriad different countries*, with *different disclosures* on their
9 payphones and *different laws governing* those disclosures. Before putting the parties through the
10 expense of discovery (especially of the apparently limitless nature that Plaintiff intends), the Court
11 should determine whether Plaintiff's claims are similar enough to proceed on a class basis. Such
12 an approach is both favored by the courts, and warranted in this action. *See, e.g., Oppenheimer*
13 *Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978); *Krim v. Banc Texas Group, Inc.*, 99 F.3d 775,
14 777-78 (5th Cir. 1996); *Valley Drug Co. v. Geneva Pharmaceuticals, Inc.*, 350 F.3d 1181, 1194
15 (11th Cir. 2003).

16 i. **Initial Discovery**

17 As recently stated by the District Court in connection with motions to dismiss filed by both
18 BBG Global and BBG Communications, the issue of whether BBG Global and BBG
19 Communications have an alter ego relationship is a threshold issue: "[T]hat is the whole factual
20 argument. If you don't prove the alter ego and you don't prove the connection to California, you're
21 out the door. You pled it sufficiently. Whether you could prove it is a whole other story."
22 [Transcript of Sept. 23, 2011 hearing at 35:9-13.] In other words, from the District Court's
23 perspective, whether Plaintiff, a Canadian national, can assert a claim under California law arising
24 out of a phone call that he made from Hong Kong to Canada depends on whether he can prove an
25 alter ego relationship between Comm and Global. If he cannot, then there is no basis for applying
26 California law.

27 Based on the District Court's own reasoning, Defendants believe that discovery as to the
28 alter ego and jurisdictional issues should be completed before any other discovery ("**Initial**

1 **Discovery**"). This will enable Defendants to file a motion for summary judgment, which, if
2 successful, would result in an early resolution of this matter, resulting in a more efficient use of
3 scarce judicial resources. To enable the parties to focus on the issues that will be raised by
4 Defendants' intended motion for summary judgment, Defendants believe that all other discovery—
5 including initial disclosures beyond the scope of the issues raised in Defendants' intended motion
6 for summary judgment—should be stayed until that limited motion for summary judgment is
7 decided.

8 That said, it is important to note that Defendants in no way acquiesce to the scope of
9 discovery that Plaintiff has proposed his section of this order (which, incidentally, was served on
10 Defendant's at the last possible minute, perhaps in an attempt to get this Court to give an opinion
11 about Plaintiff's intended discovery without giving Defendants sufficient time to respond).
12 Plaintiff alleges that there is an alter ego relationship between Global and Comm, and has sued
13 both of those entities. To explore that allegation, Defendants understand that Plaintiff seeks to
14 review *their* financial statements and data. He has not sued any other entity or individual, nor has
15 he made any allegations suggesting that Global or Comm is the alter ego of any other person or
16 entity. This case is not about the Galicots as individuals or about their family trusts. It is about
17 phone calls made by a Canadian citizen from at payphone at the Hong Kong airport to Canada that
18 was placed using Global's services. The disclosures made at that payphone admittedly are in
19 complete compliance with Hong Kong law. Nonetheless, Plaintiff intends to seek private financial
20 information from and related to third party individuals and organizations, such as Rafael and
21 Gregorio Galicot and their family trusts. Plaintiff has no basis for seeking such private
22 information from third parties before exploring the relationship between Global and Comm,
23 which, as Plaintiff already knows from the declarations of Defendants' auditors, are adequately
24 capitalized and operate at arm's length. Plaintiff's proposed discovery is completely overbroad,
25 irrelevant, and best described as a discovery blizzard that can serve no purpose but to harass
26 Defendants. Defendants intend to vigorously object to such discovery.

27 Plaintiff also suggests that he is entitled to explore not only the disclosure of rates at the
28 Hong Kong airport, but also (1) Defendants' relationships with *all* of their agents and other entities

1 who perform services on their behalf worldwide and (2) the volume of complaints and
2 chargebacks registered against Defendants on a worldwide basis, even though Plaintiff's claims
3 relate only to phone calls that he made from Hong Kong to Canada. Such broad discovery has no
4 bearing on the issues to be raised in Defendants' motion for summary judgment, and should be put
5 off until the Court determines whether Plaintiff's action can proceed beyond summary judgment
6 and whether a class can be certified. There is little point spending countless hours on such
7 discovery (if it is even relevant) if Plaintiff's claims will not survive Defendants' motion for
8 summary judgment or class certification.

9 ii. **Class Discovery And Merits Discovery.**

10 If Plaintiff gets past this initial phase, Defendants contend that discovery should be further
11 phased between discovery related to (1) Plaintiff's intended motion for class certification ("Class
12 **Discovery**") and (2) the merits ("**Merits Discovery**"). Plaintiff has not at this time described any
13 additional discovery that he intends to seek in these two later phases.

14 iii. **Initial Disclosures And Depositions.**

15 As noted above, Defendants believe that initial disclosures should be phased as well, and
16 propose that the parties exchange more limited initial disclosures related only to the issues to be
17 raised by Defendants' motion for summary judgment by January 9, 2012. Defendants do not
18 believe that it is reasonable for them to provide such disclosures by December 23, 2011, as
19 Plaintiffs propose.

20 As to depositions, Defendants understand that phased discovery may necessitate deposing
21 certain individuals more than once. Defendants agree with Plaintiff that some witnesses could be
22 deposed once during each phase of discovery, but that the total deposition time for any witness
23 over the course of this lawsuit cannot exceed the seven hours provided for in the Federal Rules Of
24 Civil Procedure.

25 iv. **Defendants' Proposed Schedule.**

26 Defendants note that Plaintiff now complains that he cannot complete his discovery within
27 the time frame that he requested and the Court suggested in its order following the Early Neutral
28 Evaluation Conference, and instead request additional time (which, incidentally, is nearly identical

to Defendants' original proposal to the Court). Defendants are willing to consider a longer schedule, but they propose the following dates in accordance with the Court's ENE Order. Moreover, Defendants note that their counsel stated that they could file their motion for summary judgment fairly quickly, but *never* proposed a date certain or suggested that they could file it in January or February. On the contrary, Defendants suggested, in writing, the March 9, 2012 date proposed below. Thus, Plaintiff's counsel's "understanding" that Defendants' counsel agreed to file Defendants' motion by "the end of January or middle of February" is incorrect.

Date	Event
February 24, 2012	Last day to conduct Initial Discovery, file related discovery motions.
March 9, 2012	Last day to file motions for summary judgment related to the Initial Discovery.
April 27, 2012	Hearing on motions for summary judgment related to the Initial Discovery.
May 25, 2012	Last day to serve initial disclosures
August 3, 2012	Last day to conduct Class Discovery and file related discovery motions (assuming no experts).
August 17, 2012	Last day to file motion for class certification
September 28, 2012	Last day to oppose motion for class certification
October 12, 2012	Last day to file reply brief in support of motion for class certification
October 26, 2012	Hearing on motion for class certification
March 29, 2013	Last day to conduct Merits Discovery
July 3, 2013	Last day to file dispositive motions

Finally, Defendants do not believe that increasing the number of depositions or written discovery allowed in this action is necessary at this time.

2. **PROPOSED TIMING OF RULE 26(A)(2) EXPERT WITNESS DISCLOSURES**

The parties agree that the Rule 26(a)(2) expert witness disclosures will be made pursuant to Rule 26(a)(2)(C), for trial experts and propose their respective schedules for doing so per the schedules set forth below. Plaintiff proposes that MCC experts be designated and their reports produced as stated in the schedule proposed above.

Defendants do not believe that Plaintiff will need expert testimony to support his motion for class certification. However, if Plaintiff does use expert testimony, Plaintiff's proposal to give Defendants less than one month to review his expert's report, depose his expert, find their own expert, and have that person prepare a report is unreasonable. Defendants need, at the very least, two months in which to complete all of these tasks. Thus, in the event that Plaintiff intends to use expert testimony to support his motion for class certification, Defendants propose that Plaintiff disclose his expert and provide a report on July 13, 2012 and Defendants disclose their expert and provide a report on September 28, 2012, when they oppose Plaintiff's motion. Defendants further propose that class discovery be extend only with regard to their expert so that Plaintiff may depose him or her if Plaintiff so chooses for use in connection with Plaintiff's reply brief.

3. **DISPOSITIVE MOTIONS**

a. **Plaintiff's Position**

Plaintiff understands that BBG Communications, Inc. or BBG Global AG, but possibly both, will be filing motions for summary judgment and that discovery directed at the jurisdiction and alter-ego issues that will be part of the Summary Judgment motions. As stated above Plaintiff's position is that it is only sensible to have orderly discovery, including some merits discovery, proceed first - before one or both of the Defendants file their summary judgment motions. After summary judgment is decided, the parties will conclude any merits and class discovery they deem necessary to prepare to move for and oppose class certification.

b. **Defendants' Dispositive Motions**

As noted above, Defendants intend to file an initial dispositive motion aimed at the alter ego and jurisdictional issues. Moreover, both sides should be given the opportunity to file for

summary judgment after class certification, if any. Based thereon, Defendants propose the following dates, which are also set forth above:

Date	Event
March 9, 2012	Last day to file motions for summary judgment related to the Initial Discovery.
March 30, 2012	Last day to file opposition to motion for summary judgment
April 13, 2012	Last day to file reply brief in support of motion for summary judgment
April 27, 2012	Hearing on motions for summary judgment related to the Initial Discovery.
July 3, 2013	Last day to file dispositive motions
July 26, 2013	Last day to file oppositions to dispositive motions
August 9, 2013	Last day to file replies in support of dispositive motions
August 23, 2013	Hearing on dispositive motions

c. Defendants' Proposed Class Certification Briefing Schedule

Defendants propose the following briefing schedule for Plaintiffs motion for class certification (following the close of Class Discovery and assuming no experts):

Date	Event
August 17, 2012	Last day to file motion for class certification
September 28, 2012	Last day to oppose motion for class certification
October 12, 2012	Last day to file reply in support of motion for class certification
October 26, 2012	Hearing on motion for class certification

1 **4. ANTICIPATED PRE-TRIAL CONFERENCE DATES**

2 **a. Plaintiff's Proposed Dates**

3 The Court's ruling on the pending motions referenced above Plaintiffs' anticipated motion
4 for class certification may have some impact on whether the parties would seek severance of
5 certain claims or issues, bifurcation of certain claims or issues, or some other ordering of proof at
6 the time of trial. Counsel will continue to discuss these and other relevant scheduling issues as the
7 case progresses.

8 Plaintiff believes that the following pre-trial schedule is reasonable, and realistic, resulting
9 in a trial date about 7 months after the Court issues its order regarding Plaintiff's Motion for Class
10 Certification.

11	Trial Expert Disclosures pursuant to Rule 26(a)(2)	November 27, 2013
12	Contradictory / Rebuttal Expert Information Disclosures	December 26, 2013
13	Dispositive Motion Hearing Cut-off	February 14, 2014
14	Fact and Expert Discovery Cut-off	April 4, 2014
15	Last Day for Final Pre-Trial Meeting of Counsel	April 18, 2014
16	Last Day to Lodge Final Pre-Trial Conference Order, file Final Memoranda and Joint Exhibit List, etc.	April 25, 2014
17	Final Pre-Trial Conference	May 16, 2014 , 2014

18
19 Plaintiff requests a jury trial on all damage claims and a court trial on all equitable issues.
20 Plaintiff estimates the trial may take approximately 15 court days, depending upon the class
21 certification ruling.

22 **b. Defendants' Proposed Dates**

23 Defendants believe that the following pre-trial schedule, which incorporates all dates
24 referenced in this Report, is reasonable, and realistic:

25 ///

1	Date	Event
2	February 27, 2012	Last day to conduct Initial Discovery, file related discovery motions.
3		
4	March 9, 2012	Last day to file motions for summary judgment related to the Initial Discovery.
5	March 30, 2012	Last day to file opposition to motion for summary judgment
6		
7	April 13, 2012	Last day to file reply brief in support of motion for summary judgment
8	April 27, 2012	Hearing on motions for summary judgment related to the Initial Discovery.
9		
10	May 25, 2012	Last day to serve initial disclosures
11	August 3, 2012	Last day to conduct Class Discovery and file related discovery motions.
12	August 17, 2012	Last day to file motion for class certification
13	September 28, 2012	Last day to oppose motion for class certification
14	October 12, 2012	Last day to file reply brief in support of motion for class certification
15		
16	October 26, 2012	Hearing on motion for class certification
17	March 29, 2013	Last day to conduct Merits Discovery and file discovery motions
18	April 12, 2013	First Identification of Expert Witnesses
19	April 26, 2013	Supplemental Identification of Expert Witness
20	May 10, 2014	Expert Disclosures pursuant to Rule 26(a)(2)
21	May 24, 2013	Contradictory / Rebuttal Expert Information Disclosures
22		
23	June 21, 2013	Last day to conduct expert discovery and file expert discovery motions
24		
25	July 3, 2013	Last day to file dispositive motions
26	July 26, 2013	Last day to file oppositions to dispositive motions
27	August 9, 2013	Last day to file replies in support of dispositive motions
28		

1	Date	Event
2	August 23, 2013	Hearing on dispositive motions
3	September 16, 2013	Last day to file motions <i>in limine</i>
4	September 23, 2013	Last Day for Final Pre-Trial Meeting of Counsel
5		
6	October 7, 2013	Last Day to Lodge Final Pre-Trial Conference Order, file Final Memoranda and Joint Exhibit List, etc.
7		
8	October 14, 2013	Final Pre-Trial Conference; hearings on motions in limine
9		

10 **5. Document Confidentiality, Preservation And ESI Issues**

11 Prior to the CMC, the parties will exchange information about preserving discoverable
12 information and proposed protocols for producing electronically stored information pursuant to
13 Fed. R. Civ. P. 26(f)(2) and (3).

14 Dated: December 9, 2011

15 EPPSTEINER & FIORICA ATTORNEYS, LLP

16
17 By /s/ Stuart M. Eppsteiner
18 Stuart M. Eppsteiner, Esq.
19 Andrew J. Kubik, Esq.

20 Attorneys for Plaintiff and the Putative Class

21 Dated: December 9, 2011

22 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

23
24 By /s Fred R. Puglisi
25 Fred R. Puglisi
26 Norma Garcia Guillen
27 Valerie E. Alter
28 Elizabeth S. Berman

Attorneys for Defendants BBG Communications, Inc.
and BBG Global AG

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